

**MINUTES FOR TWO (2) PUBLIC HEARINGS  
OF THE PLANNING & ZONING BOARD  
HELD TUESDAY, SEPTEMBER 15, 2009; 7:30 P.M.  
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

The Chair called to order the September 15, 2009 Public Hearing of the Planning and Zoning Board at 7:30 p.m.

**A. PLEDGE OF ALLEGIANCE**

**B. ROLL CALL**

**Members Present:** Frank Goodrich, Mark Bender, Janet Golden, Kathy Patterson, Kim Rose, Susan Shaw, Greg Vetter, Victor Ferrante, Jeanne Cervin, Chair; Kevin Liddy (7:35)

**Staff:** David Sulkis, City Planner; Emmeline, Assistant City Planner; Linda Stock, Zoning Enforcement Officer (to 8:00 p.m.); Phyllis Leggett, Board Clerk.

**C. PUBLIC HEARING CLOSSES BY 10/20/09; EXP. 11/19/09**

1. **217 BROADWAY (ZONE RA-5)** Petition of Marwan Hanania for a Special Exception and Site Plan Review for approval of the illegal conversion of a mixed use building (store with apartment above) to a two-family dwelling, on Map 12, Block 121, Parcel 3, of which Marwan Hanania is the owner.

**Marwan Hanania, 219 Broadway, Milford.** Has owned the building next door to his residence for the past ten years. Used to be a package store downstairs and an apartment upstairs. The previous owner had turned the package store into a two-bedroom apartment. Would like approval to let it remain as a two family house. Will do whatever has to be done to accomplish this.

The Chair asked Linda Stock, the Zoning Enforcement Officer to give a history of the property.

**Mrs. Stock:** A chronology of events was distributed to the Board members regarding this property. The first order was sent to Robert Gaudette, the previous owner, who had made extensive interior renovations without permits. It was discovered that Mr. Hanania had taken over the property. Mr. Hanania has been in the office several times stating he would do what he was supposed to, but he does not return to the office. Planning and Zoning has been to court on this particular property. Court has been postponed for no show of the applicant. Judgment has been entered for the City and the Office believes in seven years it has given Mr. Hanania more than an opportunity to come forward and do the right thing, which is to apply for a Special Exception and Site Plan Review.

**Ms. Shaw:** Asked if this situation is about the conversion to the two apartments or are there other issues as listed on the chronology.

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**Mrs. Stock:** There is only one other issue that is listed and that is the junk car that was on the property. Everything else was about the illegal conversion of the property to the two-family dwelling.

**Ms. Rose:** Asked if it was known who did the conversion.

**Mrs. Stock:** No. There is no way to know who actually converted the property which was done at least since 2002. It was discovered when Mr. Gaudette was the owner and then Mr. Hanania took it over. Does not know who in the process continued the conversion, but it is always the current property owner that is responsible for whatever violation exists.

**Mme. Chair to Staff:** Anything the Board needs to know about agency reports?

**Mr. Sulkis:** Mrs. Stock did a fine job in relating the history of this property. Tonight's hearing is one of the last steps in the court process. When it was last in court the judge said Mr. Hanania could ask the Board to recognize this change. If the Board does not recognize this than Mr. Hanania has to remedy the situation.

**Ms. Stock:** Mr. Hanania has a lengthy history with enforcement. It is not relative to the application that is before the Board. What is before the Board is whether or not it wishes to approve the two-family dwelling in a single family residential zone. This must be said because he has applied, although it has taken him several years, and paid his fees; he's filled out the application; this is merely background that this property has been an enforcement issue for over seven years.

**Mme. Chair:** This was clear to the Board. Asked Mr. Hanania if he had a response.

**Mr. Hanania:** Stated he bought this house in its current condition of being a two-family residence. He did not change the house.

**Mme. Chair:** Anyone to speak in favor of the application?

(No response)

Anyone to speak in opposition?

**Carol Klingele, 160 Broadway, President of the Wildemere Beach Association.** Sent the Board members a letter from the Wildemere Beach Association. The Association does not feel Mr. Hanania should not have a two-family house in this area because of the already existing congestion in the area.

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There have been violations on the property. It will add to the congestion, parking and traffic. There will be sewer issues with more people in the neighborhood. There has been police activity at that home many times.

Asked members of the Wildemere Beach Association who were present in the audience, who were in opposition, to stand up and raise their hands.

Had a petition signed by over 50 members in opposition.

(The petition was received and date stamped into the record)

Due to the issues between zoning enforcement and noncompliance, the Association does not understand why he would suddenly decide to comply after seven years and the fact it would cause more congestion in the neighborhood.

**Mme. Chair:** Stated the people who raised their hands as part of the Association would be in agreement with what has been said. Asked if anyone else wished to speak.

**Bob Rudd, 194 Shorefront.** Lives two blocks away from the property in question. This house has been a source of problem in the neighborhood. It has been misused for so long. There are parking problems. All the land adjacent to the building has been paved over and there are cars parked on the asphalt. This is a bus stop in the morning for school kids. There is also a playground across the street. There should be no loss of visibility in sight lines for cars driving by. It has been cited for many violations by the Health Department and the Police Department. It has created a litter problem and there have been disturbances in the middle of the night. The neighbors have put up with this for years and years. He finds it an imposition to be here and it is appalling that after seven years he should be allowed his due process and go through this procedure and make believe it has any viability. There are no special circumstances for this special application. He wants to break the rules that the Board has set up to maintain that property and the neighborhood. The applicant owns at least three additional buildings, all in the same condition. Travesty to the neighborhood.

**John Carissimi, 64 Kirkside Avenue.** He moved into the area 24 years ago, at which time it was a mess. Hope at the time and the intent of most of the citizens was to reverse that and create a nice area by the beach. It was the residents' plan collectively to clean up this area. The City supported this plan. The Wildemere Beach Park was established where abandoned houses had once been which were acquired by the City. That area is being taken care of by the Associates. Million dollar homes are being built in the area. Mr. Hanania has a different plan which does not match the other residents' plan. For the Board to approve an illegal conversion would not be in the interest of all the work that has been done; all the people who live there and it would certainly not follow the plan.

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**Mme. Chair:** Asked Mr. Hanania if he would like to respond to what has been said, but could not add any new information.

**Mr. Hanania:** Has tried to fix up the house since he bought it. It was about to be condemned at that time.

**Mr. Vetter:** Asked if the plans dated 2004 were his intent now for the property, including the landscaping on the outside?

**Mr. Hanania:** Yes.

**Mr. Sulkis:** The plans before the Board are for "if" the property is approved as a two-family. The landscaping and parking plans would go into effect. The Board has a survey that shows what is going on there now. Looking closely, it can be seen that the parking area is all over the property. The landscape plan is there to be an improvement, if he is approved.

**Mr. Goodrich:** The parking appears to go over the lot coverage which would not meet the regulations. The parking spaces do not appear to be the legal width.

**Mr. Sulkis:** The existing garage would be torn down and tandem parking would be in its place. The situation here is that nothing conforms and he is asking the Board to allow it. The house being there is a preexisting condition and parking is all over the place. With the plan it would be in an organized area.

**Mr. Goodrich:** If it was a one family house it might meet the lot coverage requirements.

**Mr. Sulkis:** It might.

**Mme. Chair:** Declared the public hearing closed. Stated she would like the Board to make their decision tonight.

**Mr. Bender:** Based on those who have spoken tonight, this goes against 7.3.1, as not being in harmony or with the appropriate and orderly development of the area.

**Mme. Chair:** Agreed with this.

**Mrs. Patterson:** Agrees as well. The area is a residential area. Would like to keep it as single family residential.

**Mr. Liddy:** What would happen if this application gets denied?

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**Mrs. Stock:** If the application is denied by the Board, it goes back to court and a judgment will be received from the court. The property will have to be converted to a single family. Not sure about all the fees that have been imposed.

**Ms. Shaw:** Agrees with all the comments. This in no way meets the regulations for that area. Made a motion to deny the application for 217 Broadway to approve an illegal conversion of a mixed use building to a two family residence in a single family residential zone.

**Mr. Goodrich:** Second.

**Mr. Vetter:** There is a series of two family houses on that street. What is their history of approval?

**Mr. Sulkis:** Do not have those files here, so cannot answer as to those particular properties. That is an old neighborhood. There could have been two family houses prior to the current zone. In this particular case, with this property, there was a commercial use, which was preexisting non-conforming. Any time there is a property like this, you do not change it to increase the nonconformity. You always want to make it more conforming. In this particular case someone changed it from commercial, nonconforming to a residential two-family nonconforming in a single family neighborhood.

All members voted in favor of the motion to deny. The motion to deny passed unanimously.

2. **1770 BOSTON POST ROAD (ZONE CDD-5)** Petition of Richard Michaud for a Special Permit and Site Plan Review for indoor recreational use of the property located on Map 109, Block 804, Parcel 17, of which M & K Post Road Associates is the owner. (Postponed from 8/18/09 public hearing)

**Richard Michaud, property owner of 1770-1776 Boston Post Road.**

(A slide show presentation of the properties involved was shown in conjunction with Mr. Michaud's narration.)

Presenting a Special Permit application to convert a portion of the property to an indoor baseball training facility. This building was originally Alexander's Department Store in the 1970s. In the 1980s the building was converted to multi-tenancy. He bought the property in April 2005. Since that time he has endeavored to upgrade the building and improve the tenancy. The location is at the Orange Town line, across the street from the Sports Authority. La-Z-boy is on the right side and to the right is a multi-tenant shopping center.

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The proposed business is existing and is located in Orange. They will be downsizing to a smaller space that is more in keeping with their needs. The proposed property is idea for this type of baseball training facility, which needs ceiling height and length, of which this building has both. It has a 28-foot ceiling height and is about 250 feet long. The primary users of these facilities are children ages 10 to 17. A Little League team will use these facilities during the winter months to continue their training. In general, baseball is played outdoors. When the weather is warm these facilities are dormant, but when it gets cold, they move inside to do their training. It is a seasonal and cyclical business.

Most of the users are children and are dropped off by their parents and are picked up at the end of their session and often the parents hang out to watch their children during the training session.

The slide display showed the breakdown of the peak and off-peak periods. Spring and summer would be off-peak periods; May-September, when baseball is played outdoors. Hours will be maintained, but the usage is minimal. In the fall and winter months the usage becomes more intensive. Teams can practice after school until 9:00 and then on weekends as well. The typical group that would come here would be a team, which generally consists of 12 children, sometimes 13-14 and usually one or two coaches.

Slides were shown depicting the property in 2005 and as it stands today. A new façade was installed; signage was cleaned up; and added landscaping on the front and sides. Tried to get some of the stores renovated. Jennifer Convertibles renovated and expanded their store and they are still in that location.

Via the display he described the site plan of the property. The property benefits from an easement and uses a portion of the parking that is owned by the property owner to the side and is encumbered by an easement (pointed to the area), which restricts the parking in that area to obstruct the passageway to the back.

Showed the overall layout of the two properties, which at one time were commonly owned. This addresses some of the reasons why the building is configured this way. Showed the parking areas and property line, and the parking area that 1770 has. The Milford regulations are not specific regarding parking for this type of use, but will be discuss the use of this facility and how this type of use works in harmony with the other uses in the building.

Showed the rear and lower level of the property which is the Reichbind storage vault and the vacated Furniture Depot, which is the proposed indoor baseball facility, as well as the upper level stores that are on the property and how the façade and landscaping has been upgraded since his ownership.

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Showed slides of the proposed Extra Bases facility. Showed the interior and how it would be set up with batting cages, reception/lounge area, a party/meeting room, golf simulator area, and an office. Total people count of 32 at peak times. Showed a rendering of the rear section of the building that would house the facility. Overhead doors would be replaced with glass panel overhead doors to allow light into the facility, and would be a drop off area.

**Mme. Chair:** Thanked Mr. Michaud for his pleasant slideshow presentation. Asked Mr. Sulkis for his comments.

**Mr. Sulkis:** Stated he had distributed a memo to the Board concerning the application, which states the main issue is parking for the site. He noted there was a change to the report which involves a dispute in the parking availability in the easement area. The neighbors are going to dispute the availability of that area to be developed or built out the way it was presented. He has come up with the number of parking spaces that appear to be on the site today, which would be 49. Adding five spaces within that easement area that the applicant would be entitled to use would total 54 available parking spaces.

It comes down to a parking issue. The use is allowed by special permit in the zone. It is an existing structure. There are no changes to the site plan, other than the proposed improvements to the parking area. This plan was not circulated to any other departments because it is an already existing building. There are no exterior changes. The use is an approved use in the zone, subject to special permit. It comes down to whether or not the Board believes that there is adequate parking to serve the property.

Stated he has no opinion regarding the numbers that the applicant provided of 38, although he would question the meeting/party room of being only 8 people. Believes there would be more. The rest of the memo is self-explanatory.

**Mr. Bender:** Asked if Mr. Michaud was the proprietor of the business as well as the property owner.

**Mr. Michaud:** No.

**Mr. Bender:** Asked about the pitching speed of the machines.

**Dave Pizzuti, 8 Pine Hill Road, Woodbridge.** Owner of Extra Bases Baseball. The pitching machines do fast pitched softball for the girls and fast pitch baseball. However, the machine speeds are electronically controlled and can be adjusted from 85 to 35 mph.

**Mr. Bender:** Noted there would be a different dynamics in the parking situation if there was slow pitch softball.

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**Mme. Chair:** Had some concerns about the drop off area for the children.

**Mr. Michaud:** Referred to the site plan and explained the children would be dropped off at the front door. The cars would cycle around the back where there is a large turnaround area and they will put out through the front, which would be the typical drop off pattern.

**Mr. Liddy:** Asked about the four substandard parking spaces Mr. Sulkis referred to in his memo.

**Mr. Sulkis:** The spaces are existing. If the project is approved the spaces will be changed and they will be brought up to standard. They are located in the front of the building. (Showed this area on the slide of the site plan)

**Mr. Liddy:** Asked if there would be handicapped parking.

**Mr. Sulkis:** On the new site plan.

**Mme. Chair:** When she looked at the property noticed there was a loading dock with a space under it and a truck was parked there.

**Mr. Michaud:** That could have been the case, but those overhead doors will be removed and will not be used by trucks in the future.

**Ms. Shaw:** Asked about lighting at the site.

**Mr. Michaud:** There is existing lighting of 3 or 4 poles in the rear parking lot.

**Mme. Chair to Staff:** Is there a lighting plan?

**Mr. Sulkis:** He planned to use the present lighting. If there will be additional lighting, he will have to present a new photometric survey.

**Ms. Shaw:** Asked for clarification about the parking spaces for the other stores in relation to the proposed facility.

**Mr. Michaud:** Via the slide, described the primary parking area. Most of the people use the existing parking in the front of the building. Most people will not want to walk to the back to use the parking spaces. Everything shown is existing parking spaces, which are owned by the adjacent property. The shaded area shows the easement that was created many years ago, which grants non-exclusive use to this property for that parking. The parking is shared between his property and the shopping center to the right.

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**Mr. Liddy:** Asked if parking spaces 49-57, which are located in the Town of Orange, have to go through any approvals from that town.

**Mr. Sulkis:** No, because those parking spaces already exist.

**Mr. Michaud:** There is no legal issue in this regard. The easement was created by the previous owner of his property, as well as the other property owner.

**Mr. Vetter:** Asked about the loading areas for the other facilities.

**Mr. Michaud:** Showed on the slide the location of the loading areas for Trendsetters and Reichbind Furs. Described how the delivery process takes place at the different stores.

**Mr. Vetter:** Asked how the day/night parking with the existing stores was planned.

**Mr. Michaud:** Baseball is seasonal and is not active indoors in the spring and summer months. This facility would not be used during daytime business hours. Generally used after school hours and on weekends.

**Mr. Vetter:** Noted the slide does not show the steep slope in the area before the former Warehouse Depot.

**Mr. Michaud:** Noted the sloped area to which Mr. Vetter referred. Pointed out the property line, driveway and neighbor's property.

**Mr. Vetter:** Inquired about the shaded area in the rear.

**Mr. Michaud:** Pointed to the wooded area in the rear.

**Mr. Vetter:** Clarified how he thought the parking would work.

**Mr. Michaud:** Stated how parking has been taking place between the back area of the former Furniture Depot store and the upper level stores for the past 5-7 years.

**Mr. Liddy:** Asked since there is no barrier between the joint parking lots, would there be a problem if people parked closer to the entrance in the winter months, and if there was snow?

**Mr. Michaud:** Stated the two properties have existed next to each other for many years. Parking has never been an issue and he has never seen the parking lot full and the rear area is rarely used. The rear area will be cleaned up, especially if it gets more use.

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**Mrs. Patterson:** Asked about the safety of the drop-off area in the parking lot area.

**Mr. Michaud:** Expects that people will pull in from the main area, drop people off (indicated area on slide), walk over to the door, drive through, turn around and cycle out the property. That would be the most convenient use of the property.

**Mrs. Patterson:** Verified that the drop off would be where the parking spaces are.

**Mr. Michaud:** Indicated via the slide how the drop off procedure would work.

**Mme. Chair:** Asked if anyone wished to speak in favor of the application.

**Dave Pizzuti, 8 Pine Hill Road, Woodbridge.** Owner of Extra Bases Baseball. He is coming from Executive Boulevard in Orange where he has had 27,000 SF. Too big an area with too much lobby space. They would have the same amount of baseball space in this building with less lobby area, and much higher ceilings. This building suits their needs better. There were no sidewalks on Executive Boulevard. There are three warehouses on that property and people walk back and forth in the parking lot. Trucks loading and unloading take place all the time. He is very concerned about the 1200 clients he has. He is been there almost daily, especially during the hours of 10:00 and 3:00 and the truck traffic that may be of concern is a tiny percentage of what it had at Executive Boulevard. The business is seasonal, after school from 4:00 to 9-9:30. At that time there is no outside traffic other than customers coming to do drop offs, which is estimated at 90%.

**Mme. Chair:** Anyone to speak against?

**Michael Brandi, Esq., Cohen & Acampora, 8 Frontage Road, East Haven, CT.** Also present are John Acampora and Abraham Kaoud, who is a partner in the Abraham Kaoud Family Limited Partnership, which is the owner of 575 Boston Post Road, Orange, CT, the adjacent property. Submitted to the Board a letter as an Objection to the Application for a Special Permit for 1770 Boston Post Road; a marked up copy of the site plan, and a copy of the recorded easements for the site. (This information was received and date stamped into the record.)

Mr. Kaoud and his family have owned the property for 16 years. The easements dated back to 1996. When the current owner purchased the property he was aware of the existing easements and their limitations. It is specifically contained in the easement that the only parking allowed is along the 65-foot portion of the building. The five spaces indicated are the only spaces allowed in the entire

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easement. All the remaining spaces, south of the loading dock down to the street line, including the two handicapped spaces, as well as those on the street line itself are all illegal spaces, pursuant to the easement. The rear area along the property line is the accessway to the rear of the property, which services both 575 and 1770 Boston Post Road. The 15 spaces to the rear is not an exclusive easement. That is an easement for both properties to use. To include those 15 spaces in any parking calculation for 1770 is inappropriate, because both properties are allowed to use those spaces.

With regard to circulation, the applicant stated that people will come through and circle around to the rear. The area to the right (at 575 Boston Post Road) is Mr. Kaoud's property. That is not for people to use as a turnaround. 1770 cannot use this area. The only area they are able to use is the 15 spaces to the rear on a non-exclusive basis. So there is not a turnaround in that area unless they can turn in those spaces and come back out.

There is a grade difference as well, which cannot be shown. There are loading docks at both properties and the safety issue is of major concern. There is truck traffic that is traversing the area going back and forth each day, during evening hours and weekends as well. This will create an unsafe situation for children who would be getting out and accessing the back property.

He believes the application, as submitted, is incomplete. There is no information in the application about where they are using a parking calculation for this new business. It states there are 74 spaces that are required for the existing businesses in 1770. If the illegal spaces are taken out which are shown in the easement area and if some of the spaces are subtracted in the parking lot rear easement, the available spaces become 46. That would make it a nonconforming parking situation. In this situation it is a change of use application, so this applies in terms of the nonconformity. There are no parking spaces being added and increasing the flow of the whole center. Based on several factors, including Sec. 7.1.2.5 of the Milford Regulations, there is no outline of the deed restrictions or covenants contained in this application; the elements of the easement are left off and that is required per Sec. 7.1.2.6. The parking layout is insufficient and inaccurate. That is required under Sec. 7.1.2.13 of the Regulations.

It was said that there had been a prior submittal of a lighting plan for this area. Have seen no lighting plan as part of this application. That is also a requirement under the site plan regulations.

Based on these factors they believe the application as submitted is incomplete and does not contain sufficient information for the Board to act.

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If the back area was to stay as an industrial use it would still require one space per 750 SF of space, which would still require an additional 19 spaces to be added to the property. In an industrial use, you do not have children coming in and out of a facility. Considers this a glorified alleyway to go to the rear of the property. It is not a big driveway; there are no sidewalks. There is a significant slope to go to the back spaces. The use of those back spaces will be very limited, especially in the wintertime. This poses additional safety factors. This will lead visitors to this facility to park in the 575 Boston Post Road lots. This is a concern as spaces that are designated for their retail use will become convenient when there are no parking spaces available to service the new use.

They believe the number of 32 patrons at a time, or 32 people in the center is probably low. It does not take into account the staff members and how what parking is available to them. When people are coming and going due to the various time slots, it will cause more congestion, more of a parking problem and will create a safety issue because children will be dropped off in an area that will be in use by other vehicles in use by both properties. The owner of the proposed business stated he has 1200 clients. That is a large amount of people coming in and out of the facility.

It was stated that after school and weekends during the winter and cooler months will be most active for this business. That is the prime time for the retail establishments as well, as well as the holiday season. That will add to the congested parking situation.

**John Acampora, Esq., Cohen & Acampora, East Haven, CT.** Topography is difficult from the street to the rear parking area and area of departure at this location. Entrance to the lower level will be improved and to the baseball facility. There is no area of turnaround unless Mr. Kaoud's property is used. The lighting in the rear parking lot is controlled by 575 Boston Post Road. The use as a warehouse is the more appropriate use. It is not for an intense pedestrian use. Mr. Kaoud is concerned about the safety and liability issues which would not be anticipated unless one is familiar with the site.

**Abe Kaoud, 31 Grove Hill Road, Woodbridge, CT.** Most concerned with the safety issue. Presented photos that showed there is an alleyway between the properties where trucks use this area as a turnaround. (Photographs were date stamped into the record.) Described and showed a photograph of the damage to his building in a recent incident where a tractor trailer in that area backed into his building because the driver could not see the edge of the building. It is a blind area and will make it very dangerous for the children.

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**Mme. Chair:** Anyone else to speak in opposition?

**Mr. Goodrich:** Asked if both these properties were owned by one owner at one time.

**Mr. Kaoud:** Responded yes.

**Mr. Goodrich:** So at one time, whoever approved this, said that the loading docks between the buildings were fine, when the buildings were originally approved.

**Mr. Kaoud:** Stated he imagined so, but he was not the owner of the property at that time.

**Mr. Goodrich:** If it is unsafe for pedestrians, why are there so many parking spaces behind the building?

**Mr. Acampora:** Parking was provided on the site whether or not at that time whoever was looking at the property was without the experience of owning it for several years. The property in the rear has been developed as warehouse space. Although the square footage is there, warehouse space is not as intense a use as retail space or as a sporting facility, etc.

There was some modification of easements at the time the properties were split because the old property lines did not follow what is there today. When they were split they were changed. He was not certain whether the parking was revamped at that time or not. The fact is it is there, available and is counted as parking, but depending on the use and who would utilize that parking is Mr. Kaoud's concern.

**Mr. Goodrich:** Asked where the five parking spaces are as noted on the easement.

**Mr. Brandi:** The easement strictly prohibits parking other than in the 45-foot length of that building on that easement. That is done to provide ample access in and out of the two areas, at least up to the first building. He read from page two of the easement, paragraph 5, "The parties hereto shall not permit parking or any obstruction in or on Easement Area #2 except for loading and unloading of vehicles and limited perpendicular parking along a portion of the southwest boundary of said Easement Area #2 shown as a 65.00 foot line on the aforesaid map". (Referred to this area on the slide of the site plan.)

**Mr. Ferrante:** What was the space before this proposed use?

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**Mr. Michaud:** Iron Mountain Archival storage.

**Mr. Ferrante:** This was not a retail use.

**Mr. Brandi:** Archives would be considered an industrial use.

**Mme. Chair:** Gave Mr. Michaud the opportunity to rebut the comments made.

**Mr. Michaud:** Heard his neighbor's objections to the plan, as well as his consultants. The easement was created well before he owned the property. It was his understanding that all of the spaces shown on it were in existence at the time the easement was created. The only change he intended to make in that area (indicated on the slide), was the use of what was once a loading area for some drop off spaces. He intended no changes in that area. It is existing and intends to use it as is.

Mr. Goodrich touched on a topic that is clear to him. When the parking, loading and slope in the area was designed, it was perfectly safe and appropriate for the use but he finds it inconvenient that today, when he intends to make some use of this area, (which the building was practically never used before), that it is somehow unsafe or not suitable for his intended use. It is his understanding that the intention of the parking restriction is to keep any type of parking out of the common area (indicated), so it does not obstruct the easement in any way, by his property or the other property.

**Rebuttal by Mr. Acampora:** A site plan is a site plan and it has to legally represent what is out there, what you own and what you have a right to use. The site plan that was submitted does not have that. The application presented makes no requirement for the new use whatsoever. The archive use that was there before was a very mundane use, and so was the warehouse use. That lower area is basically a warehouse. That is what it has been for a number of years. Finds it troubling that the area beneath the retail at 1770 which is vacant now will undergo improvements. Those entrances will converge and they were never used before in concert with a heavy pedestrian type use, which is what it will become.

**Final rebuttal by Mr. Michaud:** If the Board has any questions he would be happy to respond.

**Mr. Liddy:** Asked if parking could be created from the wooded area in the back.

**Mr. Michaud:** No. There is a stream that passes behind the building with a grade change.

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**Ms. Shaw:** Asked what other businesses were in the strip and what was the nature of the truck traffic.

**Mr. Michaud:** Showed where a loading dock was located which serves Trendsetters Furniture. Deliveries generally in the am before noon. The only other deliveries at this property are where there is an overhead door that is used by the furrier and was previously used by the Furniture Depot tenant on the lower level.

**Mr. Kaoud:** At this time the buildings are empty and there is no truck traffic in the back. There is a total of four loading docks, plus a small one for Sleepy's when they were there.

**Ms. Shaw:** Clarified that it was Mr. Kaoud's property that utilized the turnaround.

**Mr. Kaoud:** Yes.

**Mme. Chair:** Asked Mr. Michaud if he had discussed the lighting situation with his neighbors.

**Mr. Michaud:** Said he had not specifically discussed the lighting situation with his neighbors.

**Mr. Vetter:** Asked Mr. Michaud what was his understanding of the easement toward the street line and the four spots and anything else that affects them.

**Mr. Michaud:** It was his understanding that the site plan and the layout of the parking existed when the easement was created. It is his understanding after speaking with the former owner, who was there when the easement was drafted, is that the intent of the easement in the parking area was to make sure there was no parking put in that area to clog it up and restrict access going back and forth to the rear parking area.

**Ms. Rose:** Asked Mr. Michaud if he had ever seen the front parking lot at his property or 575 Boston Post Road completely full.

**Mr. Michaud:** Only when Laz-E-Boy was under construction and their trucks used to park there. Aside from that one time it has never been full because the businesses that are there do not generate that type of parking use. Although the furrier is classified as a retail use they have a pickup and delivery service for furs which is a big part of their business for storage and cleaning of furs. On occasion a customer will come to the store for repairs or to purchase furs. It is not a use that generates a lot of traffic. Jennifer Convertibles and Trendsetters, might have some customers at one time, but they do not exceed the practical use for the businesses.

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**Ms. Rose:** Asked Mr. Kaoud and his attorneys if the 15 spaces in the back ever been completely used to capacity.

**Mr. Acampora:** No. Stated they are about 50% of the required regulation for that building. That is based on the present tenants. If the tenants change and you have a “hot” tenant, like Sleepy’s, it generates a lot of parking.

**Mr. Liddy:** Asked Mr. Pizzuti about the 1200 clients he stated he had. Asked about the traffic flow in a typical day so he could understand how active the property would be if it gets approved.

**Mr. Pizzuti:** There is limited space for usage on the inside. It could never get out of control. Everything is done by schedule. Teams are scheduled to arrive and leave at certain times. The 32 people using the facility at one time would be accurate. The party room is small and could only accommodate 8-12 people.

**Mr. Liddy:** This could become a very popular place and people not scheduled could come by.

**Mr. Pizzuti:** People could show up, but if the facility is being used they would have to come back. It is not a free for all.

**Mr. Ferrante:** Asked about the required parking spaces as described in Mr. Sulkis’ memo to the Board.

**Mr. Sulkis:** Based on the information provided by the applicant about the uses that currently exist there, not including the proposed baseball use, they need to provide 74 parking spaces. What they currently have on site now are 49 parking spaces plus the 5 in the easement area, which includes the back area.

**Mr. Ferrante:** According to the regulations they need 74 spaces without this use.

**Mr. Sulkis:** Correct. Based on the use they have on the site plan.

**Mr. Ferrante:** Asked if there was an issue with the driveway, given that it is two lanes.

**Mr. Sulkis:** Had been concerned if there was going to be heavy pedestrian traffic from the back to the front and recommended that it be separated somehow through bollards or a built up sidewalk, in order to protect the pedestrians from the back. The problem with that is the property line is the wall of the building. In order to do that the applicant would have to go onto the neighbor’s property to do that. It would be his preference, but the applicant would have to do this with his neighbor’s cooperation.

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**Mr. Ferrante:** Asked the width of the driveway.

**Mr. Sulkis:** 25 feet. Twenty-four feet is required for two way traffic.

**Mr. Liddy:** Asked if a rear entrance could be made.

**Mr. Sulkis:** That had been considered but because there is a brook and a head wall, there was no way to get to the back of the building.

**Mr. Rose:** How many vehicles would be coming to the facility at one time?

**Mr. Pezzuti:** There is a lot of carpooling. Approximately 10-15 cars.

**Mr. Sulkis:** Clarified his prior response to Mr. Ferrante: There are 49 + 5 parking spaces (54) currently on the site.

**Mr. Ferrante:** Asked the parties if there were five parking spaces in contention.

**Mr. Brandi:** There are five that are not in contention. There are 16 in the easement area, so there are 11 that they consider illegal parking spaces that are on the plans in the easement area. There are five that they agree are allowed there.

**Mr. Ferrante:** Clarified there are five along the 65-foot wall. In the back they contend that it is not exclusive.

**Mr. Brandi:** Correct.

**Mr. Ferrante:** How was that treated in his calculations?

**Mr. Brandi:** It was their analysis it was treated that both parties would be entitled to half the spaces roughly. But even if you gave the applicant the entire allotment, he is still short of the requirement. It is a non exclusive easement in the back.

**Mr. Ferrante:** There are 15 spaces and the applicant would get 7.5 spaces, approximately.

**Mr. Brandi:** Roughly, yes.

**Mr. Ferrante:** Asked what the Board's duty was when the attorneys say there is an outside document over which the Board has no control and that document is subject to interpretation and it is in contention. What they are saying is the site plan is inaccurate.

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**Mr. Goodrich:** Stated he was reading Schedule B of the easement and could not determine exactly where the easement is. Asked if Staff could take a look at it and figure out exactly what the Schedule B easement is referring to.

**Mme. Chair:** Believes the Board needs some clarification and validation on the legal issues.

**Mr. Sulkis:** He can look at the easement that was provided, but ultimately the Board has to make a judgment.

**Mme. Chair:** No decision will be made on this matter tonight, but by the October 6<sup>th</sup> meeting the Board will need a photometric plan.

**Mr. Michaud:** There had been talk as to whether or not an entrance could be created on the side. Initially he and Mr. Kaoud had many discussions about creating an entrance on the side but they could not reach an agreement. At that time plans were submitted to Mr. Sulkis that had photometrics of this area with lighting on the side (indicated on the slide). Still intend to keep all of the lighting on that side. It is his understanding that once it was changed to this side (indicated), that the photometrics would not be needed. If it is now needed, he will provide them.

**Mme. Chair:** Asked Mr. Sulkis if updated photometrics would be necessary.

**Mr. Sulkis:** When he originally met with the applicants there was no discussion about adding any lighting there. If lighting is to be added it would have to be in strict accordance with the regulations and there is no way there can be a photometric survey in this case, because the lights that would be on Mr. Michaud's building, which is the actual property line. So, there is no way that those lights will meet the requirements. There will be too much light onto Mr. Kaoud's property. In order for lighting to be provided on that property, there would have to be some sort of an agreement between the two property owners, unless Mr. Kaoud wants to provide the lighting on his property that would meet the lighting requirements.

**Mme. Chair:** Stated the Board would need to see more specifically what the lighting will be before it can make a decision.

**Mr. Sulkis:** Then someone has to provide a lighting plan that will meet the requirements of the regulations. Does not see how this can be done without the cooperation of the two property owners.

**Mr. Michaud:** Stated he had a lighting plan before which showed the lights on this side of the building and it elaborated on the light poles in the rear parking lot. They can resubmit that plan which had been created previously.

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**Mr. Sulkis:** Stated it should have been part of the application package. First hearing that there is new lighting going in that is not already there. If so, then that new lighting has to meet the regulations. Does not see how this can be done without Mr. Kaoud's cooperation, since his property will also be lighted.

**Mr. Michaud:** They planned to put lighting shining on the driveway. A lighting plan can be provided, which had been previously submitted. When the plans were changed, the lighting plan went away. That plan is still available and can be submitted.

**Mme. Chair:** Stated a satisfactory plan should be submitted to the Planning and Zoning office prior to the next meeting.

**Mr. Sulkis:** The applicant can submit a lighting plan but that plan will have to conform to the regulations and he does not know how any new lights can conform to the regulations without Kaoud's approval, since Mr. Michaud cannot light up Mr. Kaoud's property. If there is something in the easement that speaks to shared lighting, then that would solve the matter. They can provide a lighting plan that meets the requirements of their easement. Having them submit a lighting plan that would not be in conformance would be a problem.

**Dean Sakamoto, Project Architect, Yale School of Architecture, New Haven.** Part of the Yale faculty. Has been an architect for ten years. He explained that he took over this project from Art Ratner, who had been working with Messrs. Michaud and Sulkis, when he passed away suddenly.

He said he had a potential solution to the lighting problem. Mr. Michaud's property on the left hand side, the 65 foot wall, and beyond is exactly on his property line. Fixtures could be mounted on his building that would illuminate the broad side of his building, which would provide reflected light onto the parking and not shine light directly on to Mr. Kaoud's property.

**Mr. Bender to Staff:** Asked if the lighting plan for Mr. Kaoud's property go right up to the wall? Why would there need to be lighting from that wall to nowhere?

**Mr. Sulkis:** Replied until he sees the photometric survey for the proposed lighting solution, he cannot answer the question. Does not know if the Board is looking for lighting that is supposed to light the parking area in the rear, he does not know how much reflective light can be obtained to light the parking in the rear that has to be kept within the .5 foot candles of the regulations. Again, it is more easily solved if Mr. Kaoud wants to help solve it.

**Mr. Bender:** Everything that is being talked about is on the 525 property. All that lighting is on that property which should have been submitted to someone and been approved, because his property line is the wall of the building, correct?

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**Mr. Sulkis:** Yes, but this is why when nothing changes it is not an issue, but the fact that they are proposing to add more lighting to make it safer that is fine, but you have the regulation that protects the abutting property owner from excess light. If Mr. Sakamoto has a solution that meets the needs of Mr. Michaud and meets the Board's needs for safety and at the same time does not create an adverse impact on Mr. Kaoud's property, then it is a win for everybody.

**Mr. Bender:** Said his question was prior to his coming up with a solution. His thought was forget about adding light, the requirements should have been lit up to that building sufficient enough up to that property line, which is the building wall, so there should not have been any need for extra light.

**Mr. Goodrich:** Said he did not think a lighting plan for the parking lot in the rear could be required because it is in Orange, not in Milford.

**Mme. Chair:** It is clear that this will be left in the hands of the City Planner.

**Mr. Liddy:** Commented that from the site plan it appears that there is lighting on Mr. Kaoud's building that lights up the driveway.

**Mr. Ferrante:** The bays and loading docks are being changed. Will the plans have to be changed in order for the Board to make its decision?

**Mr. Sulkis:** Clarified that what was depicted on the site plan would not be changed. The parking easement needs to be clarified. Mr. Michaud did not contest the five parking spaces along the 65-foot wall, so the rest of the site plan showing parking, including the parking that would have been there is going to disappear and will come off the site plan. Whether the loading bays remain or not does not affect the parking, so there is no need to change the plans.

**Mr. Vetter:** Based on the safety, traffic flow and parking issues, asked if a flow document could be prepared for the Board so that the members could see how the drop off area would be handled in and out of the facility and if there is a topographic map that shows the grading change on the property. Because someone else's property is being used as part of the circular drop off, it would be important to have this information.

**Mr. Sulkis:** There is no full topographic survey but elevation changes can be seen to some degree on the survey. The drop off procedure was described and there is nothing else that can be produced. Different people are going to do different things under different circumstances when they are driving or dropping off.

**Mme. Chair:** Encouraged the board members to visit the property in question before the next meeting, if they have not already done so.

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The Chair closed the public hearing. The lighting plan will be submitted and reviewed by the City Planner.

**Mr. Brandi:** Requested that the public hearing be held open if additional documents are to be received. If there are changes in the actual site plan with regard to the parking issue and other areas they would like to have the chance to respond if the Board plans to react and vote on a newly submitted plan.

**Mme. Chair:** Stated it was her understanding that no additional information would be received by the Board. The lighting plan would be submitted to the City Planner for his review.

The public hearing was closed.

[A brief recess was taken from 9:36 to 9:45 p.m.]

Janet Golden left the meeting at 9:36 p.m.

**D. NEW BUSINESS**

3. **26 SEAVIEW AVENUE (ZONE R-10)** Petition of John Gabel, PE, for Coastal Area Management Site Plan Review approval of the construction of a single family residence on Map 9, Block 130, Parcel 2A, of which Elizabeth Stevens is the owner.

John Gabel, Connecticut Consulting Engineers, Meriden, CT on behalf of Amy and Anthony Simintelli's application for a Coastal Area Site Plan approval. Proposing a single family dwelling on what is an empty lot at this time. Met with the City staff regarding the site plan requirements. Meet all the City requirements for this lot. However, the frontage is 50 feet and is zoned at 70 feet. The lot area is 6,102 SF and is zoned for 10,000 SF. Meet all the requirements for this lot. Not going for any special approval. Meet the lot coverage for the building and height requirement. Have addressed all the drainage issues with the DEP and the City staff. Received approval from the Fire Department, Sewer Commission approval and DEP approval. Received comments from Codespoti & Associates, the consulting engineer for this project. Have a letter of approval from them with five conditions. Two conditions have already been met. The three other conditions can be added to the plan. They entail obtaining permits from the Engineering Department, and will be incorporated into the construction plans. The DEP had a concern about the piping plover nesting area, which was in the vicinity of the site. The piping plovers' nesting season was from April to mid-August and that time has passed. If construction was to be done during that time frame, it is only the beach area which is of concern and the property does not go past that area.

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**Ms. Harrigan:** The engineering comments were received today via fax. The Public Works Director who signs off on the Engineering Department's review is on vacation. So those comments have not been officially received from Public Works. She confirmed that comments 1 and 5 of the engineering review have been addressed. Comments 2, 3 and 4 are standard comments, which are required as to obtaining permits prior to construction through the Engineering office.

**Mme. Chair to Staff:** Asked if everything meets the regulations?

**Ms. Harrigan:** Yes and the applicant is well aware of the coastal site plan concerns and considerations. The plover is in the vicinity, not adjacent to the site and the construction staging should avoid any conflict.

**Mr. Goodrich:** This house is a few feet closer to the sidewalk on the beach than either of the neighbor properties.

**Mr. Gabel:** The house meets the setback requirement in that area.

**Mr. Ferrante:** Asked about the side setbacks and was there a projection on an upper story and was it depicted.

**Mr. Gabel:** Yes. The house is right on the setback line. There is a projection on the northern side and one on the southerly side, which meets the requirements. The chimney is also within the setback.

**Mr. Ferrante:** Asked if there was a right-of-way adjacent to the property.

**Mr. Gabel:** No.

**Mr. Ferrante:** Asked the square footage of the footprint.

**Mr. Gabel:** 2,764 SF. The finished property is 6,102 SF. This information is listed in the zoning chart on the plans.

**Ms. Rose:** Made a motion to approve the application of 26 Seaview Avenue.

**Mr. Goodrich:** Second.

All members voted in favor. The motion passed unanimously.

4. **55 SHELLAND STREET – BOND RELEASE** Request by Connecticut Light & Power for a release of bond in the amount of \$66,798, and to approve Shelland Street for City services, as approved by Bruce C. Kolwicz, Director of Public Works, in his memo dated September 10, 2009.

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**Mr. Ferrante:** Based solely on the recommendation of the Public Works Department and the technical and field knowledge of its department, he moved to release the bond and approve Shelland Street for City services.

**Mr. Goodrich:** Second.

All members voted in favor.

**E. PROPOSED REGULATION CHANGES**

Board has received a draft of the proposed sign regulations to be reviewed and discussed at a later date.

**Mme. Chair:** Speaking with David about the regulations. Would like to make the process more applicant friendly as much as possible. They have discussed whether the Board has to look at the CAM reports and whether the bond reduction approvals can be handled through the office.

Mr. Sulkis will check the State Statutes to see if these changes would be allowed.

The Board has been under attack as not being friendly to businesses. Asked the Board members to take a look at the regulations and see if there is anything that they might be able to change to make the process more friendly to businesses. Would like everyone to give their attention to that.

**Mr. Vetter:** Asked if there could be a public forum to obtain feedback without it becoming a public gripe session.

**Mme. Chair:** Believes it would be a very difficult thing to handle and was not sure how productive it would be. Would encourage people to contact their State representatives if there are issues. Open to any other creative ideas in this regard.

**Mr. Bender:** This is campaign time and it is a wonderful time to get feedback from the voters.

**F. LIAISON REPORTS**

**Ms. Shaw:** Local Proud kicks off officially on Monday, September 28<sup>th</sup>. Everyone in Milford is invited to come to City Hall at 9:00 a.m. where there will be a proclamation from the Mayor proclaiming it Local Proud Week. There will be balloons, t-shirts and other giveaways.

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**Mrs. Patterson:** Attended the Police Commission meeting last night. The Traffic Department did several surveys in different areas regarding traffic. The recommendations were approved for new signage and other necessary items for the streets.

**G. APPROVAL OF MINUTES – (9/1/09)**

**Mr. Bender:** Motion to approve.

**Ms. Rose:** Second.

**Mr. Ferrante:** Stated he listened to the video. It was blacked out and he did not see it.

All members voted in favor of approving the minutes as corrected.

**H. CHAIR'S REPORT**

Received a notice of CCM hosting their Annual Convention & Exposition on Thursday, October 8, 2008 at the CT Convention Center in Hartford beginning at 3:00 p.m. Urged the members to attend if they could.

**Dennis Guaglianone**, producer and broadcast director of Milford Government Access Television. Also cable advisory councilman for this region. Last night issues were brought up about people not being able to receive the broadcast. These are issues that are discussed with the Council. He has been working with them as to what action should be taken. Encouraged anyone who has problems or complaints about Cablevision, ATT, etc., to come to their meeting on Thursday night, September 17<sup>th</sup> in the Board of Ed Conference Room 7:00 p.m. at the Parsons Complex. For the past 4-1/2 years the Council has been fighting to get the \$134,000 a year that the DPUC ordered Cablevision and ATT to pay to Soundview and they have been trying to obtain those funds. Any citizen support that they can get for this purpose would be appreciated.

**Mr. Bender:** Stated two years ago the Chair requested members not say "through you". Some of the members still say it and some do not. For consistency, it would be best to stop saying it, or all say it.

**Mme. Chair:** Responded she also likes consistency and has stated it was not necessary to say "through you". Could take a Board vote. Does not think it is necessary and would like to take it as policy.

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**I. STAFF REPORT - None.**

**Mrs. Patterson:** Made a motion to adjourn the meeting.

**Ms. Rose:** Second.

All members voted in favor of adjourning the meeting at 10:04 p.m. The next meeting will be held as a Public Hearing on October 6, 2009.

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Phyllis Leggett, Board Clerk